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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,083	10/14/2003	Christoph Haas	2002P17240US (1867-0038)	4365
7590 01/10/2005 Harold C. Moore Maginot, Moore & Beck Bank One Center/Tower 111 Monument Circle, Suite 3000 Indianapolis, IN 46204-5115			EXAMINER BENSON, WALTER	
			ART UNIT 2858	PAPER NUMBER

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,083

Applicant(s)

HAAS ET AL.

Examiner

Walter Benson

Art Unit

2858

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on IDS filed 3/15/04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/14/03&3/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-10 are presented for examination.

Drawings

2. The drawings are objected to because Figure 1, items 1-5, 6 and 8; Figure 2, item 10; and Figure 4, item 21 require suitable descriptive legends. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The

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filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1 and 5 of this application conflict with claims 1 and 4 of Application No. 10/685,077. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yanagisawa et al. (US Patent No. 5,027,077 and Yanagisawa hereinafter).

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7. As to claims 1 and 8, Yanagisawa discloses an apparatus and method of determining air humidity with a capacitive moisture measuring element, comprising:

the method steps of: charging and/or discharging the capacitive moisture measuring element by way of a first measuring resistor, wherein a first time constant or a first period duration of the charging and/or discharging operation is ascertained (col. 6, lines 1-12);

charging and/or discharging the moisture measuring element by way of a second measuring resistor, wherein the value of the second measuring resistor is different from the value of the first measuring resistor and wherein a second time constant or a second period duration of the charging and/or discharging operation is ascertained (col. 6, lines 13-25);

a signal preparation unit connected to the moisture measuring element [claim 8] (col. 6, lines 60-64).

8. As to claim 2, Yanagisawa discloses an apparatus and method of determining air humidity with a capacitive moisture measuring element, further comprising:

where the capacitance of the moisture measuring element is calculated from the two time constants or the two period durations, and the moisture measuring element for the calculation operation is modeled by a parallel circuit of an ideal capacitor and an ohmic resistance (col. 6, lines 49-51).

9. As to claim 3, Yanagisawa discloses an apparatus and method of determining air humidity with a capacitive moisture measuring element, further comprising:

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where the ohmic resistance value of the moisture measuring element is calculated from the two time constants or the two period durations, and the moisture measuring element for the calculation operation is modeled by a parallel circuit of an ideal capacitor and an ohmic resistance (col. 6, lines 27-48).

10. As to claim 4, Yanagisawa discloses an apparatus and method of determining air humidity with a capacitive moisture measuring element, further comprising:

a method step in which a current moisture signal is ascertained with the capacitance of the moisture measuring element (col. 2, lines 66-67, and col. 3, lines 1-3).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5-7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa in view of Cota (US Patent No. 5,922,939 and Cota hereinafter).

Although the system disclosed by Yanagisawa shows substantial features of the claimed invention (discussed in the paragraphs above), it fails to disclose:

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a method step in which a corrected moisture signal is calculated for a current moisture signal ascertained from electrical properties of the moisture measuring element, wherein in a measuring phase with rising relative air humidity RH the corrected moisture signal is the current moisture signal increased by a correction value $a(RH)$ and wherein in a measuring phase with falling relative air humidity RH the corrected moisture signal is the current moisture signal reduced by a correction value $a(RH)$ [claim 5];

where the correction value $a(RH)$ is constant [claim 6];

where the correction value $a(RH)$ is stored in a table [claim 7];

a monitoring unit by which a certain deviation of an ohmic resistance value of the moisture measuring element over a relatively long period of time can be detected and signaled [claim 9];

a correction unit [claim 10].

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Yanagisawa, as evidenced by Cota.

Cota, discloses a humidity sensing apparatus and method having:

a method step in which a corrected moisture signal is calculated [col. 3, lines 63-67] for a current moisture signal ascertained from electrical properties of the moisture measuring element (col. 1, lines 65-67 and col. 2, line 1), wherein in a measuring phase with rising relative air humidity RH the corrected moisture signal is the current moisture signal increased by a correction value $a(RH)$ and wherein in a measuring phase with falling relative air humidity RH the corrected moisture signal is the current moisture signal reduced by a correction value $a(RH)$ [claim 5] (col. 5, lines 3-13) to determine humidity;

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where the correction value $a(RH)$ is constant [claim 6] (col. 2, lines 8-11);

where the correction value $a(RH)$ is stored in a table [claim 7] (col. 2, lines 56-60);

a monitoring unit by which a certain deviation of an ohmic resistance value of the moisture measuring element over a relatively long period of time can be detected and signaled [claim 9] (col. 4, lines 55-60) to compensate for possible changes in capacitance.

a correction unit [claim 10] (col. 2, lines 12-20);

Given the teaching of Cota, a person having ordinary skill in the art at the time of the invention would have readily recognized the desirability and advantages of modifying Yanagisawa by employing the well known or conventional features of sensor technology, such as disclosed by Cota, in order provide an improved humidity sensor capable of measuring humidity in a highly accurate manner.

Prior Art Made of Record

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

A. Gokhfeld (US Paten No. 5,792,938) discloses a method and apparatus that automatically corrects for drift and slow hysteresis;

B. Davis et al. (US Patent No. 6,724,612 B2) discloses a method and apparatus for measuring humidity.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter Benson whose telephone number is (571) 272-2227. The examiner can normally be reached on Mon to Fri 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on (571) 272-2233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter Benson *WB*
Patent Examiner

January 5, 2005

Anjan Deb
ANJAN DEB
PRIMARY EXAMINER